SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 1057

FREDERICK C. MERGNER,

Petitioner,

vs.

THE UNITED STATES OF AMERICA.

BRIEF IN SUPPORT OF PETITION

Opinion

The opinion of the United States Court of Appeals for the District of Columbia was filed February 19, 1945, and appears at page 81 of the Record.

Jurisdiction

The statement of the grounds on which the jurisdiction of this court is invoked is contained in the Petition for Writ of Certiorari, supra, (page 2).

Statement of the Case

The statement of the case is contained in the Petition for Writ of Certiorari, supra, (page 2).

Specification of Errors

The petitioner urges the following assigned errors:

1. The Court erred in admitting the statements and confessions of the defendant.

2. The Court erred in refusing to strike from the evidence the statements and confessions of the defendant.

3. The Court erred in denying the motion of defendant to direct the jury that it could not return a verdict of murder in the first degree (R. 9).

ARGUMENT

For the purposes of this petition the petitioner relies upon the errors of (1) admitting the defendant's confession and (2) refusal of the Court to strike the confession from the evidence.

However, without the confessions, there would have been a lack of sufficient evidence of premeditation and deliberation to make a case of first degree murder. *Bullock* v. *United States*, 74 App. D. C. 220, 122 F. 2d 213; *Bostic* v. *United States*, 68 App. D. C. 167, 169, 94 F. 2d 636, 638.

There were two statements made by the petitioner, but the petitioner has maintained and still maintains that the first statement of the defendant was so interwoven in the second statement as to be a part and parcel of it; and that, if the first was inadmissible, the second which necessarily flowed from it was also inadmissible.

In its opinion, the appellate court relied upon the confessions of the defendant to make a case of deliberate and premeditated murder (R. 82-83).

In the trial court and in the appellate court, petitioner did not rely upon the *single* factor of drunkenness of the defendant for exclusion of the confession (R. 65). As then, we now rely upon the *combination* of *three* factors for ex-

clusion of the confession, namely (1) the illegal detention of the defendant, (2) his inability to consult counsel and (3) his drunkenness.

Illegal Detention of the Defendant

Sec. 4-140, D. C. Code, 1940, is as follows:

> The several members of the police force shall have power and authority to immediately arrest, without warrant, and to take into custody any person who shall commit, or threaten or attempt to commit, in the presence of such member, or within his view, any breach of the peace or offense directly prohibited by Act of Congress, or by any law or ordinance in force in the District, but such member of the police force shall immediately, and without delay, upon such arrest, convey in person such offender before the proper court, that he may be dealt with according to law.

The United States Court of Appeals of the District of Columbia has held that section applicable to cases where prisoners are arrested for a felony by the Metropolitan Police Force of the District of Columbia. *Mitchell* v. *United States*, 78 U. S. App. D. C. 171, 138 F. 2d 426. True, that case was reversed, but on other grounds. *United States* v. *Mitchell*, 322 U. S. 65, 88 L. ed. 812, 64 S. Ct. 896.

Therefore, the law of the District of Columbia upon that proposition has been settled and determined and we must follow that law. *Erie Railroad Company* v. *Tompkins*, 304 U. S. 64, 78, 82 L. ed. 1188, 58 S. Ct. 817.

In the case at bar, the defendant's arraignment was purposely delayed by the arresting officer, so that they could obtain a statement from the defendant.

Inspector Barrett, the Chief of the arresting officers, testified that he "ordered the defendant to No. 10 Precinct for the purpose of seeing defendant and talking to him" (R. 20) and "the reason witness (Barrett) sent defendant to No. 10 was because witness could talk to him there" (R. 21).

It must be conceded that the length of time of the detention of a prisoner without arraignment, standing alone, is no reason for exclusion of his confession. But, if the arresting officers deliberately flout the statute and defy the courts' interpretation of it for the avowed purpose of depriving a defendant of their efficacy and protection, whether the prisoner's detention be of long or short duration, then the case of *McNabb* v. *United States* is of no avail whatsoever. That opinion may well never have been written.

As stated in the *McNabb* case, 318 U. S. 345 (and reasserted in the *Mitchell* case):

> * * * Plainly, a conviction resting on evidence secured through such a flagrant disregard of the procedure which Congress has commanded cannot be allowed to stand without making the courts themselves accomplices in wilful disobedience of law. Congress has not explicitly forbidden the use of evidence so procured. But to permit such evidence to be made the basis of a conviction in the federal courts would stultify the policy which Congress has enacted into law.

If this conviction is allowed to stand, then the statute and the opinions of the courts thereon are robbed of their intent, their effect and their consequences. The shield which they heretofore provided will have become the sheerest veil, which can be snatched from about the defendant with the slightest effort on the part of over-zealous police officers.

Inability to Consult Counsel

It is conceded that the defendant was unable to consult counsel (R. 22). Again, that alone is insufficient for the exclusion of a defendant's confession. But, when a defendant has been illegally detained, is without counsel and is in a mental state bordering on mania (if not actually in a state of mania), then, if ever, he should be afforded the advice and good offices of competent counsel. *Powell*

v. *Alabama*, 287 U. S. 45, 77 L. ed. 158, 53 S. Ct. 55; *Johnson* v. *Zerbst*, 304 U. S. 458, 82 L. ed. 1461, 58 S. Ct. 1019; *Walker* v. *Johnston*, 312 U. S. 275, 85 L. ed. 830, 61 S. Ct. 574.

The Drunkenness of the Defendant

In the appellate tribunal, we urged that the drunkenness of petitioner was such that it precluded the possibility of premeditation and deliberation required for conviction of murder in the first degree. We also contended and still contend that petitioner was in such a drunken state as to be mentally incapable of knowing what he was doing or of appreciating the effect of his first statement to the arresting officers; and that under such circumstances, the arresting officers should not have been permitted to keep the petitioner away from the Committing Magistrate, who found petitioner mentally incapable (R. 23, 24, 38, 39), and who would have protected the defendant from the inquisition of the officers.

The time schedule of the events surrounding the first statement is considered important. It is as follows:

2 p. m.—Defendant arrested by Sergeants Crooks and Perry at 3328 University Place, N. W., near American University.

Defendant on way to No. 8 Precinct, on Albemarle Street, near Wisconsin Avenue, N. W., when ordered by radio to No. 10 Precinct by Inspector Barrett for the purpose of talking to defendant.

3 p. m.—At No. 10 Precinct on Park Road, N. W., near 7th Street, Inspector Barrett talked to defendant, then he and Lieutenant Flaherty talked to defendant.

4:15 p. m.—Defendant booked at Police Headquarters, 3rd and Indiana Avenue, N. W., and taken before United States Commissioner Turnage, at 7th and E Streets, N. W.

4-5 p. m.—Defendant before the Commissioner. Remanded to custody of Marshal.

5:20-5:30 p. m.—Defendant seen at cell room, District Court, by Drs. McDonald, Rosenberg and Murphy, and by Mr. Kearney.

6. p. m.—Defendant seen by Mr. Sard at District Jail, 19th and B Streets, S. E.

The defendant was arrested at 2 p. m. on Tuesday, October 26, 1943. He had been drinking continuously since Thursday, October 21, 1943. That evidence was uncontradicted.

The opinions of the defense witnesses made out a stronger case of intoxication of the defendant than did the witnesses of the prosecution. However, the facts stated by the police officers did not bear out their conclusions.

The first officers to see the defendant after the commission of the offense were Sergeants Crooke and Perry. This was about 2 p. m. the day following the slaying. Sergeant Crooke tried to convey the impression that defendant was mentally alert. However, he stated the fact to be that the defendant was noticeably under the influence of intoxicants; that he was very nervous; that defendant cried and gritted his teeth; that the defendant would make a face and grimace. Sergeant Perry was not as positive as Sergeant Crooke in his conclusion as to the mental alertless of the defendant. The former stated that "*apparently*, defendant understood" (R. 18). Evidently, that sergeant could not bring his mind to the positive conclusion which his brother officers entertained. Sergeant Perry noticed that the defendant was loud and boisterous, would curse and swear, boast of his strength and of his ability to thrash the sergeant (R. 19). Furthermore, this witness also stated that the defendant "would have spells of cursing and *then would talk naturally, fairly normal*" (R. 20). Undoubtedly, it was apparent to Sergeant Perry that there were times when the defendant was not mentally normal. The fairest conclusion to be deduced from the last statement of Ser-

geant Perry is that the conversation of the defendant, during the period that witness talked to him, was only *qualifiedly* normal.

The threats of the defendant against the police officers were not taken seriously. Sergeant Crooke "thought defendant was talking" (R. 17). That could only mean that the sergeant thought that the words of defendant were the ramblings of a mind befogged by liquor.

The defendant was said to have "weaved" from liquor (R. 18) and to have staggered real bad at No. 10 Precinct (R. 16).

Inspector Barrett and Lieut. Flaherty started to talk to the defendant at 3 p. m. at No. 10 Precinct. That conversation could not have lasted over an hour, because the defendant was booked at Police Headquarters at 4:15 p. m. and taken immediately before the United States Commissioner (R. 26).

It must be conceded that up until that time the defendant did not have counsel (R. 23). It cannot be denied that defendant was then under the influence of liquor. The prosecution can only dispute the degree of intoxication of the defendant.

The defendant knew Inspector Barrett (R. 20, 21, 25), yet when Sergeants Crooke and Perry appeared to arrest him, the defendant asked if either of them were Barrett (R. 15). When brought before Barrett at No. 10 Precinct, the defendant stated that he had given himself up, but the Inspector had to explain to him that he had not done so but that Officers Crooke and Perry had arrested the defendant (R. 24).

Before Inspector Barrett was permitted to narrate the statement of the defendant which was given at No. 10 Precinct, the jury was excluded and the question of the voluntariness of the statement was passed upon by the Court (R. 21-24). The Inspector, Lieut. Flaherty and United

States Commissioner Turnage were heard out of the presence of the jury.

Inspector Barrett stated that *he* had the defendant brought to No. 10 Precinct "because witness could talk to him there" (R. 21). At that time, according to Barrett, the defendant was under the influence of intoxicants, he cried, and "*had* to hold" Barrett's coat and hand. The defendant held Barrett's arm, pulled his coat and squeezed his hand. "Defendant talked very plain at times, at other times he was a little different * * *." The defendant would start to talk about what he had done and then would start to talk about his children. Defendant's eyes were bloodshot, his face red, the odor of alcohol came from his breath and the defendant gave every indication of a man who had been drinking a couple of days (R. 21).

It is true that Inspector Barrett testified that the defendant's statements were coherent and that he could understand the defendant, but the Inspector was not as positive about the mental state of the defendant. As to that, Barrett said that the defendant "*seemed* to understand what witness and Lieut. Flaherty said to him" (R. 21).

Here, it is well to take up Commissioner Turnage's testimony, because Inspector Barrett testified that at 4:15 p. m. he saw the defendant when the latter was on his way to the Commissioner's and that the "condition of the defendant was the *same as it was at No. 10*" (R. 22).

If that be true, then the powers of observation of the Inspector and the Commissioner, must be at opposite poles. The Commissioner, who is not a prosecuting officer, testified that

> the defendant was so emotionally disturbed that he ought not to have been arraigned. Defendant was apparently in a condition where he had very little understanding of the gravity of the charge which had been placed against him. Defendant was not in any posi-

tion to be arraigned at that time. Defendant seemed to have no understanding whatever of the predicament he was in. Defendant answered to his name, he made something of a scene, which I would call a scene, not too terrible a scene, and acted certainly abnormally, to say the least. Defendant was talking, his conversation was absolutely unintelligible. Witness could not remember what defendant said. Defendant was talking in a loud voice and also mumbling to himself. Witness could understand some of it but could not remember it. Defendant answered his name, said, "This is getting serious," then started to go all to pieces; he was pretty nervous (R. 23).

The Commissioner further testified that the defendant was never arraigned, but that when the defendant stood mute before him, a formal plea of not guilty was entered for the defendant (R. 24).

If the statement of Inspector Barrett be true, that the condition of the defendant when taken before the Commissioner was the same as it was at No. 10 Precinct, then the conclusions of the police officers as to that condition are of no weight whatsoever, because their *statements of fact*, together with the testimony of Commissioner Turnage clearly disclose that the defendant's intoxication was such that the defendant did not have sufficient mental capacity to know what he was saying when he made the statement at No. 10.

The inconsistency of the testimony of the police officers respecting the drunkenness of the defendant is best demonstrated by Lieutenant Flaherty, who had the temerity to testify that he "would not say defendant was drunk" yet in the next breath he said: "In fact, if defendant was walking down the street *and witness did not come in contact with him*, witness would not arrest him" (R. 22).

The only conclusion that can be drawn from that last statement of Flaherty is, that if Flaherty *had come in con-*

tact with the defendant on the street, Flaherty would have arrested him for being drunk. This witness also stated that the defendant "would jump from one object to another" (R. 22).

The police officers were too over-zealous in their efforts to obtain a conviction in this case and their testimony concerning the mental condition of the defendant at the time he made his statement at No. 10 Precinct should be given no weight whatsoever.

The trial Court permitted the statement of the defendant at No. 10 to be given to the jury notwithstanding the objection of the defendant that defendant was taken to No. 10 Precinct for the very purpose of obtaining a statement from him, although he should have been arraigned, although he was intoxicated or under the influence of liquor and without an attorney (R. 24). The admissibility of that statement was submitted to the jury as a question of fact (R. 75). That was reversible error.

At the conclusion of the evidence, defendant moved the Court to strike the statement of the defendant as given at No. 10, on the same grounds previously urged. At that time, the trial Court had before it the further testimony of Messrs. Kearney and Sard, Dr. Murphy and the acquaintances, business associates and relatives of the defendant.

After the defendant appeared before the Commissioner at 4:15 p. m., he was committed to the custody of the United States Marshal. Chief Deputy Marshal Kearney saw the defendant about 5:30 p. m. that evening. At that time Doctors MacDonald, Murphy and Rosenberg, of the Corner's Office, were present. Dr. MacDonald asked the defendant whether the defendant knew him. Defendant did not answer. "*After two or three minutes,* defendant said, 'You are Dr. Magruder.'" The defendant, when prompted, then got the name of Dr. MacDonald backwards, calling him MacDonald Magruder. The defendant was drunk, according to

Mr. Kearney. The defendant thought that he had his Packard car with him and told Mr. Kearney to take it and get some whiskey. The defendant was so drunk that he could not sign his name (R. 37).

Dr. Murphy placed the time of that conversation at between 5:20 and 5:30 p. m. He stated that defendant recognized him and after some hesitation got the name of Dr. MacDonald straight. The purpose of Dr. Murphy's visit was to make tests to determine whether the defendant had any blood on him, but the

> Defendant's speech was coherent at times and incoherent at other times and more or less rambling in character. Defendant would drift off into 'What will I do about my children?' Defendant had a distinct odor of alcohol on his breath. * * * Witness felt or knew that defendant had been indulging in alcoholic beverages to some extent (R. 39) but not to what witness would call complete intoxication. Witness saw no reason for going on with the test then, because of the fact that witness DID NOT THINK DEFENDANT QUALIFIED TO GIVE PERMISSION FOR SAID TESTS; * * * (R. 40).

Dr. Murphy also stated that defendant attempted to write his name but that it was all run together and very irregular.

If the defendant had been taken immediately before the United States Commissioner, if he had been examined by the Deputy Coroner and had been seen by the Chief Deputy United States Marshal, before the arresting officers talked to him, we are of the firm conviction that the police officers would not have had the brazenness even to endeavor to obtain a confession from the defendant.

If the events following the confession had occurred in the inverse order the trial court undoubtedly would never have admitted the confession.

We submit that the facts of this case disclose that the defendant was suffering from temporary insanity at the time he made his confession. But, if not, then his mind

was at least in such a state of confusion as to definitely preclude the arresting officers from slyly evading the dictates of statute and of the opinions of this Court.

It is not a departure from our established rules of evidence to hold that temporary insanity, is sufficient to make a confession made during the existence of such state inadmissible against a defendant, as a matter of law. That may be a step forward in the declaration of what the law really means, but it certainly cannot be said to be an innovation.

To so hold would not change the law respecting the responsibility for a crime. No court of any dignity has ever weighed the effect of the exclusion of a confession, wrongfully obtained, against the responsibility of the defendant for having committed the crime. To the contrary, the courts have consistently taken the position that a confession, wrongfully obtained, is inadmissible no matter what the consequence to the prosecution.

Of course, in using the phrase "wrongfully obtained," counsel does not intend to limit that phrase to cases where force, fraud or duress was used, or where some statute protecting the rights of the accused has been violated in the obtaining of the confession. For, it is equally true that a statement by a defendant is "wrongfully obtained" if obtained when the defendant is in such state of mind as to be mentally incapable of knowing what he was doing at the time of making the confession.

If that be the case, then the confession of this defendant was "wrongfully obtained." The conduct, actions, words and appearance of the defendant, as narrated by the various witnesses inevitably lead to that conclusion. In addition thereto, we have the unbiased opinion of Commissioner Turnage who saw the defendant just a few minutes after the police officers did, as well as that of Dr. Murphy who saw the defendant about an hour after the police officers

saw him, this being over three hours since defendant had had a drink of wine and *at a time when the mental faculties of the defendant should have been improved by such a lapse of time.* The testimony of those two witnesses was clear and unequivocal. In their opinion, the defendant was mentally incompetent.

Aside from the conclusions expressed by the police officers, which were not supported by the facts as narrated by them respecting the actions, the conduct and the words of the defendant before, at the time of, and immediately after, his confession, were certainly sufficient to establish, as a matter of law, that the defendant was mentally incompetent at the time he made the confession at No. 10 Precinct and thus bar the confession.

If there could have been any doubt in the mind of the trial Court upon the question of the incompetency of the defendant, at the time he made the confession at No. 10, the trial Court should have resolved the doubt in favor of the defendant and should have excluded the confession.

That is an established doctrine of the "judge-made" law, of which the Court speaks in *United States* v. *Mitchell,* 322 U. S. 65, 88 L. ed. 812, 64 S. Ct. 896. We find it in *Bram* v. *United States,* 168 U. S. 532, 565 (42 L. ed. 568, 18 S. Ct. 183):

> * * * In the case before us we find that an influence was exerted, and as *any doubt as to whether the confession was voluntary must be determined in favor of the accused,* we cannot escape the conclusion that error was committed by the trial court in admitting the confession under the circumstances disclosed by the record. (Italics supplied.)

That the defendant was not sufficiently in possession of his mental faculties at No. 10 Precinct, in order to make his confession admissible against him, is doubly proved

by the testimony of Inspector Barrett as to what occurred at the Jail in the latter's talk with the defendant. At the Precinct, Barrett was at liberty to question the defendant as long and as freely as he desired. Barrett's course of conduct was free and untrammelled. Yet, at the Precinct, Barrett could not get a clear statement and picture from the defendant as to what the defendant had done. That is unqualifiedly proved by Barrett's statement to the defendant at the Jail. At that time:

> Defendant was told that there were a few things witness (Barrett) wanted to straighten out (R. 25).

In the conversation at the Jail, no new matter was brought into the conversation other than that which had been discussed at the Precinct. No details of the crime other than what had been talked about at the Precinct were inquired about by Barrett. That demonstrates that Barrett actually knew that at the Precinct the defendant was not "coherent," notwithstanding Barrett testified that he was (R. 21).

That is another reason why the trial Court should have held, as a matter of law, that the confession of the defendant as made at No. 10 Precinct was inadmissible.

In *Ziang Sun Wan* v. *United States*, 53 App. D. C. 250, 256 (289 F. 908), the Court of Appeals of the District of Columbia held that the trial Court properly submitted to the jury the question of the admissibility of the defendant's confession, because "the evidence tending to show that it was involuntarily made was not so conclusive as to justify the court in excluding the confession from the jury." In that case the police officers denied the duress and intimidation of the defendant.

On Writ of Certiorari, the Supreme Court reversed (*Wan* v. *United States*, 266 U. S. 1, 16 (69 L. ed. 131, 45 S. Ct. 1), holding that notwithstanding the denials and avowals of

the arresting officers, duress was proved, as a matter of law, saying:

> The undisputed facts show that compulsion was applied. As to that matter there was no issue upon which the jury could properly have been required or permitted to pass.

Those words are equally as applicable in this case as they were in the *Wan* case. The facts, not the opinions of the police officers, impel the conclusion that the defendant was mentally incompetent at the time he was at No. 10 Precinct.

In *Perrygo* v. *United States,* 55 App. D. C. 80 (2 F. 2d 181), the trial Court submitted to the jury the question whether the verbal and written confessions of the defendant were freely and voluntarily made. The opinion in that case was reserved, pending the opinion of the Supreme Court in the *Wan* case.

In following the *Wan* case, the *Perrygo* case held that there was no controversial evidence to be submitted to the jury although the record in that case shows that the police officers steadfastly maintained that they had done nothing improper to induce the statement of Perrygo. The Court held (p. 83):

> * * * In the present case, after all the testimony concerning the confession had been introduced, the undisputed *facts* showed that the statements made by the defendant could not have been the result of purely *voluntary mental action.* (Italics supplied.)

In the *Perrygo* case, it appeared (p. 82) that Perrygo was "but 17 years old and of low mentality." In speaking of the relation of those circumstances to the admissibility of the confession, the Court said (p. 82):

> * * * We do not mean to intimate that he could not understand right from wrong, but we do mean that his

> *age and mentality are important factors* in determining whether, in the circumstances admittedly surrounding him, his confession was voluntary. (Italics supplied.)

In the case at bar, the defendant relied upon a concatenation of events, namely, the taking of the defendant to No. 10 Precinct for the express purpose of obtaining a confession from him, rather than immediately taking the defendant before a committing Magistrate for arraignment as required by statute, as well as the failure of defendant to have counsel at that time and *particularly*, when the defendant, according to all witnesses, was intoxicated.

We relied upon that proposition of law particularly because of the pronouncements in the majority opinion in *United States* v. *Mitchell, supra*, and in the concurring opinion of Mr. Justice Reed, wherein the latter states:

> As I understand McNabb v. United States, 318 U. S. 332, as explained by the Court's opinion of today, the McNabb rule is that where there has been illegal detention of a prisoner, *joined with other circumstances* which are deemed by the Court to be contrary to proper conduct of Federal prosecutions, the confession will not be admitted. Further, this refusal of admission is *required even though the detention plus the conduct do not together amount to duress or coercion.* • • •
>
> In my view *detention without commitment is only one factor* for consideration in reaching a conclusion as to whether or not a confession is voluntary. The juristic theory under which a confession should be admitted or barred is bottomed on the testimonial trustworthiness of the confession. If the confession is freely made without inducement or menace, it is admissible. If otherwise made, it is not, for if brought about by false promises or real threats, it has no weight as proof of guilt. Wan v. United States, 266 U. S. 1, 14; Wilson v. U. S., 613, 622; 3 Wigmore Evidence (1940 Ed.) Sec. 882. (Italics supplied.)

In the case at bar there is an accumulation of facts and circumstances which should entitle this defendant, in logic and in justice, to the shield and protection which the above cases have thrown about a defendant.

Moreover, the underlying principle of the law of the admissibility of confessions as evidence against an accused is tion as to whether or not the rights of the accused, under the trustworthiness of the confession, as well as the questhe Constitution, have been abridged. How can it be said that the confession of this defendant is reliable?

The Second Statement of the Defendant

The statement of the defendant given at the District Jail was also inadmissible. The defendant's statement at the Jail was part and parcel of the statement at the Precinct. Inspector Barrett, at the Jail, told the defendant that he wanted to "straighten out" a few things that defendant had told Barrett at the Precinct. The talk at the Jail was a supplement to the talk at the Precinct. The statement at the Jail was not intelligible without the talk at the Precinct. The things that had been wrongfully learned at the Precinct were made the basis of the talk at the Jail. If the things stated at the Precinct were inadmissible, they could not be admitted when made the basis of Barrett's interrogation at the Jail. The information which the Police had wrongfully obtained could not be used as the basis of obtaining additional information.

In the *Perrygo* case, *supra,* an oral confession was obtained as well as a written statement. The Court held that neither was admissible. In the *Wan* case, *supra,* it appears (266 U. S. 1, 9) that the defendant made four oral statements, the fifth being a stenographic report of an interrogation of the defendant. The Supreme Court held that none of the five statements were admissible (p. 15).

It follows, that if the statement of the defendant at the Precinct is inadmissible, the statement of the defendant at the Jail was inadmissible.

Conclusion

Wherefore, the premises considered, your petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Court, directed to the United States Court of Appeals for the District of Columbia, commanding that court to certify and to send to this Court for its review and determination, on a day certain to be named therein, a full and complete transcript of the record and all of the proceedings in the case numbered 8806 and entitled on its docket *Frederick C. Mergner* v. *United States*, and that the said judgment of the United States Court of Appeals for the District of Columbia, may be reversed, and for such other and further relief as to the Court may seem meet and proper.

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